

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
HATTIESBURG DIVISION

TRESS LAMAR DUKES

VS.

CIVIL ACTION NO. 2:10cv252-KS-MTP

MICHAEL J. ASTRUE,
COMMISSIONER OF SOCIAL SECURITY

ORDER ADOPTING REPORT AND RECOMMENDATION

This cause came on this date to be heard upon the Report and Recommendation of the United States Magistrate Judge entered herein on December 21, 2011, after referral of hearing by this Court, no objections having been filed as to the Report and Recommendation, and the Court, having fully reviewed the same as well as the record in this matter, and being duly advised in the premises, finds that said Report and Recommendation should be adopted as the opinion of this Court.

IT IS, THEREFORE, ORDERED that the Report and Recommendation be, and the same hereby is, adopted as the finding of this Court, and the Commissioner's [10] Motion to Affirm is **denied**.

IT IS FURTHER ORDERED that the Plaintiff's [9] brief be construed as a Motion for Reversal or Remand of the Commissioner's Decision and that it be **granted in part and denied in part**. It should be granted to the extent that it seeks remand to the Commissioner. Upon remand the Commissioner shall develop the record consistent with the Appeals Council's original remand instructions, including obtaining certain testimony from a vocational expert and clarification of the Plaintiff's exertional limitations. The Commissioner should specifically address the application of the

additional information required by those instructions, and issue a decision based on the supplemental record. Plaintiff's motion should be denied to the extent that it seeks reversal or any other relief related to the Commissioner's decision.

SO ORDERED, this the 1st day of February, 2012.

s/Keth Starrett
UNITED STATES DISTRICT JUDGE